

## **The Maryland Board of Pharmacy Public Minutes - October 21, 1998**

President David Russo called the public meeting to order at 8:45 A.M. In attendance were Commissioners W. Irving Lottier, Secretary, Wayne Dyke, Barbara Faltz Jackson, Melvin Rubin, Donald Yee, Raymond Love, Ramona McCarthy Hawkins, Stanton Ades, Jeanne Gilligan Furmar and Rev. William Johnson; Board Counsel, Paul Ballard; Board Staff, David Denoyer, Cheryl Cresic and Executive Director Norene Pease. Commissioner Laura Schneider was excused and was absent from the meeting.

Guests present include:

Michael V. Johansen, NACDS  
Dorothy Levi  
Nathan Gruz, MPhA  
David Moore, MSHP  
Lieser Mayo-Michelson, MSHP  
Vicki Gruber, Evans & Stierhoff  
Jennifer Wagner, Glaxo Wellcome  
Catherine Putz, Drug Control  
Phil Cogan, MPhA  
Gary Norbury, Purdue Frederick  
Robert Vlk, Purdue  
Marvin Freedenberg, NeighborCare  
Bob Duffy, Happy Harry's  
Mike Clark, Happy Harry's

**Any member of the Board with a conflict of interest relating to an item on the agenda should notify the Board at this time.**

There were no conflicts reported.

### **Approval of Minutes**

A motion was made by Barbara Faltz Jackson and seconded by Stanton Ades to approve the September 16, 1998 Board minutes as written. All Board members approved.

### **Executive Director's Report**

Spring Grove Hospital Move - Ms. Pease spoke with Robert Beasman, Director General Services about Pharmacy moving to the Bland Bryand Building at Spring Grove Hospital. Mr. Beasman indicated that he believed it would be many months before any group moved to Spring Grove because of renovation issues that needed to be resolved. He and Mark Puente, Deputy Secretary

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for Operations assured Ms. Pease that the Pharmacy Board would be considered for space at Spring Grove Hospital since the BPQA had acquired the space initially designated for pharmacy in the Rush Building.

NABP/AACP Meeting Status - October 22-24, 1998 Board staff, Dean Knapp and staff have completed the plans for the conference. Board members noted those who would attend.

Technology Show - December 9-10, 1998 - Jeanne Furman reported that she is in the process of identifying companies interested in participating in the show and would like to provide a display that is interesting to all ages and depicts varied aspects of pharmacy practice.

Maryland Pharmacists Association 1998 Mid-Year Meeting - Ms. Pease asked that the Board authorize her to purchase a booth at the Maryland Pharmacists Mid-Year meeting to promote the Board and its role in pharmacy in the State. The mid-year meeting is scheduled to be held the first weekend in February 1999.

**Guest Presenter** - Happy Harry's Pharmacies - Mr. Bob Duffy from Happy Harry's Pharmacy explained to the Board the security system in place at the Pharmacy. Mr. Duffy stated that Happy Harry's has 40 stores in 4 states which have an electronic alarm system without physical barriers. Mr. Duffy reported that the electronic alarm system also controls internal theft.

Mike Clark from the security firm in Delaware stated the pharmacy is a separate area within the store, access to the area is limited by an automated alarm system and motion detectors preventing access to the pharmacy area, these detectors are the tools used in securing the pharmacy. If the pharmacy area is invaded the alarm sounds and a signal is transmitted to the security company. The security system is operated independently from the store. Mr. Clark stated that the pharmacist is the only person who can activate the system. Mr. Duffy reported that this system tracks who enters the pharmacy area and when they leave. Video cameras are also used to continuously detect who is in the pharmacy area.

Commissioner Love asked if the pharmacist was late arriving, would the store still open, Mr. Duffy stated yes. Mr. Love also asked about the cleaning staff and who would be in the store? Mr. Duffy stated that the front end store staff would be there and the pharmacist is present when the pharmacy area is cleaned. Barbara Faltz Jackson raised the question of who would apprehend a person who entered the area illegally and the alarm sounds? Mr. Clark stated that the manager or store personnel would be responsible for the apprehension and the alarm company would dispatch the police immediately to the pharmacy.

Dr. Love stated he would like to hear the Practice Committee's recommendation on this issue. David Russo stated the regulations would need to be changed to accommodate electronic

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surveillance systems since the regulations now state the pharmacy must be in a secured (interpreted as physically enclosed) area. Mr. Russo explained that the security issue is currently being discussed by the Pharmacy Practice Committee and the Board will keep them informed of any recommended changes in the regulations.

### **Board Counsel's Report**

Paul Ballard reported on the issue of filling prescriptions by a non-Maryland or non-U.S. licensee. Mr. Ballard stated it is common practice to fill prescriptions from out of State prescribers which he considered to be appropriate. A prescription received from a non-U.S. licensee would require a change in statute to authorize the practice. Board members had no further questions concerning this issue. Board Counsel was asked to consider including an exemption for Canadian prescribers in a package of proposed changes to the Pharmacy Practice Act for 1999.

**MOU with the School of Pharmacy** - At 11:15 A.M. on October 21, 1998, at 4201 Patterson Avenue in Baltimore, Maryland, the Board of Pharmacy voted to meet in closed session to discuss advice of counsel regarding the proposed memorandum of understanding between the University of Maryland and the Board to fund the salary of the Pharmacist Compliance Officer. The Board voted unanimously in favor of closing the meeting under authority of State Government Article, 10-508(a) (7). The Board members present for the vote were President David Russo, W. Irving Lottier, Secretary, Commissioners Wayne Dyke, Barbara Faltz Jackson, Melvin Rubin, Donald Yee, Raymond Love, Ramona McCarthy Hawkins, Rev. William Johnson, Stanton Ades and Jeanne Gilligan Furman.

### **Committee Reports**

**Licensing Committee** - Commissioner Wayne Dyke reported that the last law examination developed by the Board, was given by the Board of Pharmacy on Tuesday, October 13, 1998. The Board will now give the examination that has been developed by NABP. The Board will continue to give the laboratory examination developed by the Board.

**Reciprocity** - Mr. Dyke reported that there were 15 reciprocity candidates and a motion was made by Wayne Dyke and seconded by Barbara Faltz Jackson, that all candidates be approved for licensure with the exception of Sossena Tesfaye, who will be licensed when the Board receives the Oral English competency certificate. The motion was approved. The candidate names are: Jeffrey Kalmanowicz, Jung Suk Kim, Kim Le, Christopher Leon, Wendy Loftis, Deborah McCann, Behrouz Ravangard, Thomas Scully, Nimita Sharma, Dailey ShROUT, Makara Sin, Wendy Small, Gerard Strugala, Sossena Tesfaye and Gale Tucker.

### **Legislative Committee**

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Strategic Planning - The Strategic Planning Group is awaiting the formulation of an advisory committee to provide direction to the Board and in consultation with each pharmacy association in the State regarding the type of organization and resources needed to lead an effort to obtain legislative support collaborative practice and medication administration authority for pharmacists in the State. Strategic Planning will meet once the advisory committee has developed a plan of action to present to various pharmacy groups including the Board.

Policy and Procedure for Registered Nurses Dispensing Prescription and over the counter drugs and devices in public health clinical practice settings - Ms. Pease reported that Nurses are attempting to receive the authorization from the Board of Physician's Quality Assurance to dispense drugs under the authority of a physician, but without a physician present in public health clinics. This authority would come from a declaratory ruling. Mr. Ballard stated that declaratory rulings are limited to the parties that request it, and do not apply generally. Dr. Love asked if the ruling would be subject to review by the Legislature, the Secretary of DHMH or any other governmental group? Mr. Ballard did not believe any additional review was needed. Dr. Love and Stanton Ades requested that Mr. Ballard research the issue as soon as possible.

Ms. Pease stated that the Department supports the issuance of a Declaratory Ruling to enable registered nurses practicing in local health departments to dispense medications. Mr. Russo asked if local health officers would also support the Declaratory Ruling. Ms. Pease stated that she believed that they would support the ruling.

### **Regulation Update**

Assisted Living Regulations - This regulation designates the responsibility of drug review to Nurses in some cases. Comments from the practice committee were condensed and sent to Ms. Phinney, Regulations Coordinator for DHMH. Mr. Denoyer reported that the Board received notification that our comments were received, but have not received a response.

Code of Conduct - Update - David Denoyer stated that non substantive changes were made to the proposal and the proposal was forwarded to Michele Phinney. Ray Love asked that the Board members receive a copy of how the changes appear.

Electronic Transmission Regulations - David Denoyer updated the Board stating that Paul Ballard now is reviewing the Electronic Transmission Regulation which needs another form addressing corresponding Federal regulations, but overall he feels the regulation is ready. Mr. Ballard is completing the additional form and stated that he intended to approve the regulations to leave the Department and be published for public comment. Mr. Denoyer commented the regulation will be published for a period of one month for comments.

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Manufacturers and Distributors Fee Regulations - The regulations concerning fees have been approved and published, and the new fees are in effect. Ms. Pease expressed her appreciation for the timely manner in which this was handled.

### **PEAC (Pharmacists Education and Assistance Committee) Update**

PEAC Representative's Report - Mr. Milton Moscowitz gave the Board a draft of the Student Drug Free Pledge and expressed his gratitude that the University of Maryland is working with this. Norene Pease will meet with the Department contract representative next week concerning the PEAC contract, for any changes in the RFP and hopes it can be issued by the 1st of November. Mr. Moscowitz asked if the Board would co-sponsor a Continuing Education Program. He feels a conflict of interest would not be an issue and Ms. Pease stated that the Board could pursue sponsoring a continuing education program and the subject has been discussed with members of the Board in the past.

Revision of renewal application question-(substance misuse) - Ms. Pease will attend the PEAC meeting in October where the renewal question will be discussed. David Denoyer asked Board Counsel, Paul Ballard, if the questions asked on the renewal application were mandated either via statute or Executive Order. Mr. Ballard stated he is unaware of any legal mandate, and stated that questions may vary from Board to Board. Mr. Ballard was asked to conduct further research to determine if there is an Executive Order or any other document specifying that certain questions must be posed to health professionals applying for licenses.

### **Pharmacy Practice Committee**

Task Force on Pharmacy Support Staff - Melvin Rubin stated that an organizational meeting by the Task Force was held which began examining questions relating to the possibility of some type of registration, certifications or licensure for pharmacy support staff in Maryland. Mr. Rubin stated that the Task Force is determining the benefits to citizens in the State of regulating pharmacy support staff versus not changing current law.

Drug Formulary Advisory Committee - Status Report - The meeting scheduled for October 26, 1998, was canceled and will most likely be rescheduled in November. Representatives from the University of Maryland, School of Pharmacy are likely to be Dr. James Polli, pharmaceuticals expert and Dr. Gary Smith, Chair Pharmacy Practice. The Secretary is also contemplating appointing a representative from BPQA, Medicaid and the Office of the Assistant Attorney General.

It is likely that the first topic of discussion for the Advisory Committee will be the issue of substitution of warfarin for coumadin. The second topic will likely concern evaluating current disqualified drugs and advise the Secretary on other drugs. Norene Pease stated she is unsure

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whether the Secretary would wish this group to be an on-going group that would meet concerning the evaluation of formulary drugs for State programs. The Secretary will determine the charge for the group and its future duties.

Pharmacy Security - The Committee discussed a draft proposal presented by Pamm Wiggin that applies to all pharmacies, which states the pharmacy area should be enclosed in a manner to prevent entry into the area. Discussion was also held concerning the regulation allowing pharmacists to leave the drug area for counseling and restroom use, with the pharmacy area being secured when it is vacated.

David Denoyer suggests a NORD form advising that we are changing the regulation concerning security. Mr. Denoyer stated that the NORD should be done before the regulatory process starts, to sufficiently keep the Department informed about the Boards process of preparing regulations..

Ray Love moved, seconded by Barbara Faltz Jackson regarding a NORD form indicating that the Board does intend to change the specifics of the security regulation. All Board members were in favor.

### **Licensing of Wholesale Prescription Drug Distributors Regulation Modification**

Mr. Denoyer reported that this is an item for further discussion in the Committee, but that it was not discussed at the last Practice Committee.

Develop a policy/regulation addressing the use of robotics in various pharmacy settings - President David Russo with the approval of Pharmacy Practice Committee Chair, Stanton Ades appointed Jeanne Furman to Chair a Task Force to study the need for regulations addressing robotics in various pharmacy settings. Ms. Furman accepted the appointment and stated that she would begin work establishing the Task Force immediately. Norene Pease stated that she would ask the Pharmacy Intern from the University of Kentucky, School of Pharmacy to work with Ms. Furman during the month of November.

Ray Love moved to establish a Task Force on robotics and automation, chaired by Jeanne Furman who will report back to the Pharmacy Practice Committee on policy regulations and guidelines. Ramona McCarthy Hawkins seconded the motion and all Board members were in favor.

### **Patient Confidentiality**

David Denoyer reported that the next Pharmacy Practice Committee meeting will take place November 4, 1998 and agenda items will consist of the confidentiality aspects of the McKesson CareMax Program and pharmacy automation and robotics.

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Budget Committee -There was no discussion concerning the Budget Committee.

Public Relations Committee - Ms. Faltz Jackson reported that the Students Against Destructive Decisions (SADD) group are working toward drug free awareness for young people and she would like to link this group with the Board's media campaign in 1999. Ms. Faltz Jackson looks forward to the release of the Media Campaign Contract in the near future.

Council of Boards - October 5, 1998 - Barbara Faltz Jackson stated the need for the public to have a better understanding of what pharmacists actually do as a member of an individuals health care delivery team. Ms. Jackson summarized the BPQA video explaining the physicians role in protecting patient health and confidentiality and felt that pharmacists should develop a similar too for its media campaign.

The Counsel of Boards and the Commission unanimously endorsed legislation to enable the Boards to set salaries in a way that is exempt from certain restrictions in the State Personnel System, Representatives from the Counsel will meet with key legislators to ask for sponsorship and support for the legislation in November. The Counsel needs Board members to volunteer to attend briefings with Legislators and to talk about the legislation with professional associations in order to garner support.

### **Questions for the Board**

#### **Past Inquiry**

Pfizer, Inc. - request for policy, dispensing laws and/or practice rules regarding out-of-state or foreign prescriptions - Board Counsel addressed this issue during the Board Counsel's Report.

Licensure requirements for the Regional Cancer Center - David Denoyer reported that his response to RCC was that they need to obtain a separate license since the RCC is at a different street address then Easton Memorial Hospital Pharmacy. Mr. Denoyer stated that in order to deliver drugs from the hospital pharmacy to separate building locations, the separate locations would need to be licensed under the same license as the hospital.

Dr. Frank Kasik - Drug delivery question - David Denoyer reported that a letter was sent to Dr. Kasik stating that it is illegal to drop off prescriptions at the front desk of a senior citizen home for multiple residents. Mr. Denoyer also stated this could possibly be an issue for the practice committee. Jeanne Furman commented that she feels this type of practice should be discouraged since the agent receiving the prescriptions would be taking on a dispensing role.

Ray Love motioned the drug delivery question be further investigated by the practice committee.

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Barbara Faltz Jackson seconded the motion and all Board members unanimously approved.

### **New Inquiries**

Viagra - Inappropriate dispensing and compounding - After Board discussion Ray Love stated that a paragraph in the newsletter regarding pharmacists confidentiality when dispensing viagra should be considered. Mr. Love will meet with W. Irving Lottier concerning the article.

TelePharmacy Inc. - TPI requested permission to expand its electronic prescription transmission test to include additional pharmacies and medical practices.

David Denoyer suggested the Board accept this request providing TPI notify the Board of what pharmacies and medical practices are involved. It was also suggested that the Board should request feedback from pharmacies and medical practices that are involved in the pilot.

The question raised during the discussion of this issue was how the physician's office is implementing freedom of choice to the prescriber. A timeframe should be given to receive a written report on this issue and Mr. Black should be invited to an upcoming Board meeting to give a status report on the current system and the rationale for the expansion of the demonstration project.

Kaiser Permanente - expiration date on pre-pack labels - Mr. Denoyer reported that Kaiser pre-packs from large bulk package into smaller retail packages. This practice is allowed since Kaiser has a manufacturers license. David Denoyer will follow up and he will refer to USP standards. Mr. Denoyer will also request that Drug Control get involved in the analysis of this issue. He also stated that further research is needed.

### **Additional Comments**

Dorothy Levi questioned an advertisement which she feels is a violation of the advertisement statute. The advertisement states 1. Switch to the better drug store and, 2. No other pharmacy makes more safety checks. Mr. Russo and Mr. Ades were more disturbed with the second statement rather than the first. Nathan Gruz felt this advertising is undermining the profession. Can the statement about making more safety checks be backed up? Wayne Dyke reported to the Board that he has referred the issue to Janet Hart at Rite Aid Headquarters for a response or clarification but he has not received a response as of yet. After Board discussion Ray Love moved to send a letter to permit holders, informing them of how the advertisement statute reads. Ramona McCarthy Hawkins seconded this motion.

Norene Pease requested the Board's consideration and comments regarding the Board meetings



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being held outside of the 4201 Patterson Avenue facility. Board discussions were held and Barbara Faltz Jackson motioned to allow approximately three meetings of the year to be held outside of the Board of Pharmacy facility. It was suggested that two meetings be held in Howard County and one meeting in Frederick County or Western Carroll County.

**Informational** - No discussions were held concerning informational materials.

### **Follow - Up Letters**

Mckesson Letter - Valu-Rite/CareMax Program - No discussions were held.

Patient Compliance and Intervention Programs Proposed Guidelines - No discussions were held.

President Russo adjourned the open session of the public meeting at 11:10 A.M. at which time Stanton Ades motioned for closure of the open session to discuss the MOU with the school of pharmacy. Barbara Faltz Jackson seconded the motion. All Board members unanimously agreed.

Respectfully Submitted,

W. Irving Lottier, Jr.  
Secretary